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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/606,491	06/26/2003	Robert G. Hauser	2852	5622

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EXAMINER

JOHNSON, SHEVON ELIZABETH

ART UNIT PAPER NUMBER

3766

DATE MAILED: 12/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/606,491	Applicant(s) HAUSER, ROBERT G.	
	Examiner Shevon E. Johnson	Art Unit 3766	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 16 October 2006.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 4,7 and 10 is/are pending in the application.
- 4a) Of the above claim(s) 1-3,5,6,8,9 and 11-13 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 4,7 and 10 is/are rejected.
- 7) ☒ Claim(s) 10 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

***Response to Arguments***

1. Applicant's arguments with respect to claims 4, 7 and 10 have been considered but are moot in view of the new ground(s) of rejection.

***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:  

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
3. Claim 10 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Specifically, Examiner how setting the timing interval and programming the intracardiac pulse generator are related.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:  

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
5. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Pappu (U.S. Patent No. 6,941,169) in view of Brockway et al. (U.S. Patent No. 6,409,674).

In regards to claim 4, Pappu discloses the system substantially as claimed comprising a hermetic housing 12, 14 containing, a power source 16, 116, 312, a pacing circuit module 12, 112; a resilient deployable shield 28 adapted to conform to said housing during insertion and deployable to an expanded shape that engages and anchors said housing in an anatomic location inside the heart (col. 4, lines 13-17 and 40-51; fig. 1-9). Pappu fails to disclose a power source is a lithium solid state cell. However, Brockway teaches a power source is a lithium solid state cell (col. 9, line 64-col. 10, line 14).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the system by substituting the battery of Pappu with the lithium solid state cell of Brockway in order to provide power to the system.

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. **Claims 7 and 10 are rejected under 35 U.S.C. 102(e) as being anticipated by Pappu (U.S. Patent No. 6,941,169).**

In regards to claim 7, Pappu discloses the system substantially as claimed comprising a hermetic housing 12, 14 containing, a power source 16, 116, 312, a pacing circuit module 12, 112; a resilient deployable shield 28 adapted to conform to said housing during insertion and deployable to an expanded shape that engages and anchors said housing in an anatomic location inside the heart (col. 4, lines 13-17 and 40-51; fig. 1-9); further comprising a lead system extending from said distal end of said housing adapted for placement in the heart (col. 4, lines 13-28 and col. 7, lines 8-16).

In regards to claim 10, Pappu discloses inserting an intracardiac pulse generator into the Left Atrial Appendage; monitoring the atrial beat in the Left Atrial Appendage; setting a timing interval based on the sensed depolarization of the atrium based on the signal in the Left Atrial Appendage; programming the intracardiac pulse generator to a pacing modality that supplies electrical energy to the Left Atrial Appendage in response to a detected atrial beat measured in the Left Atrial Appendage; further comprising, a conventionally placed implantable pulse generator coordinating its action with said intracardiac pulse generator to provide dual chamber pacing therapy (col. 4, lines 13-28 and col. 7, lines 8-16).

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**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shevon Johnson whose telephone number is (571) 272-2010. The examiner can normally be reached on M-F (8 a.m. - 4:30 p.m.).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Pezzuto can be reached on (571) 272-6996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Shevon Johnson  
Art Unit 3766



Robert Pezzuto  
Supervisory Patent Examiner  
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